



ELECTION NEWS

A special informational bulletin
on the conduct of the November 2,
2004 general election

Michigan Department of State - Terri Lynn Land, Secretary of State

Issue No. 6

October 25, 2004

Handling Emergencies that Raise Questions Over the Interruption of the Voting Process or the Extension of the Polling Hours

All polling places must be ready and open for voting at 7:00 a.m. At 7:00 a.m., it is the duty of the precinct chairperson to publicly announce the opening of the polls by declaring, "The polls are now open." The polling place must remain open for voting until 8:00 p.m. At 8:00 p.m., it is the duty of the precinct chairperson to publicly announce the closing of the polls by declaring, "The polls are now closed." Every voter standing in the line at 8:00 p.m. must be permitted to vote.

County and local clerks cannot shorten or extend the polling hours unless and until directed to do so by individuals who retain the proper legal authority. The following points merit emphasis:

- Should any event or emergency occur outside of your jurisdiction which raises questions over the interruption of the voting process or the suspension of the election, do not take any action unless and until you receive direction through the Michigan Department of State's Bureau of Elections. The careful coordination of such decisions is essential to the orderly conduct of the elections process.
- Should any event or emergency occur within your jurisdiction which raises questions over the interruption of the voting process or the closing of one or more polling places in your jurisdiction, take direction from your local enforcement officials and call the Michigan Department of State's Bureau of Elections (517/373-2540) to alert us to the situation. It is important that the Bureau be contacted as soon as possible in any instance where your local enforcement officials evacuate or close a polling place during the 13-hour polling period. If it is necessary to evacuate a polling place for any reason, instruct the precinct board to take possession of the poll book before leaving the polling place.
- Should any situation occur which raises questions over the extension of the polling hours after 8:00 p.m., do not take any action unless and until you receive direction through the appropriate legal channels. The polling hours cannot be extended beyond 8:00 p.m. without a court order.
- Watch for incoming emails from the Department of State's Bureau of Elections on November 2! If an urgent need to communicate with Michigan's county and local clerks emerges on November 2, the issuance of an email to all county and local clerks will be one of the first actions we will take.

Reminder: Check Post Office for Absent Voter Ballots that Arrive on Election Day!

Michigan election law, MCL 168.765(3), stipulates that on election day, the city or township clerk must contact the post office “at which the clerk regularly receives mail” and arrange to obtain any absent voter ballots being held at the post office in sufficient time to deliver the absent voter ballots to the appropriate precinct board by 8:00 p.m.

Given the above requirement, all city and township clerks must contact their local post office in advance of the November 2 general election to make arrangements to obtain any absent voter ballots that reach the post office on Tuesday, November 2. The requirement is designed to ensure that any and all absent voter ballots that reach the clerk’s post office on election day are counted – including those absent voter ballots that arrive in the post office after the clerk’s routine mail delivery on election day.

If You Are a Candidate ...

If you are seeking reelection to office on November 2, it is very important that you keep any necessary visits to your polling places as brief as possible to avoid any perception that you are “campaigning” in the polls. While a clerk whose name appears on the ballot has the right to enter the polls to handle any problems which require his or her personal attention, the clerk must immediately leave the polls after the matter involved has been addressed. Several tips to avoid complaints:

- On election day, refrain from holding any casual conversations with voters inside the polls or any building in which a polling place is located. Such conversations, if held, must be conducted at least 100 feet from any doorways being used by voters to enter the building in which the polling place is located. All public officials in your jurisdiction whose names appear on the ballot should be careful to observe this same standard.
- If your office adjoins a room where a polling place is established, keep your office door closed during the hours the polls are open. Again, all public officials in your jurisdiction whose names appears on the ballot should be careful to follow this same standard.
- Inspect your polling places before the polls open on election day for any photographs of public officials who appear on the ballot and remove any that are found. (If the photographs cannot be removed, they should be covered.) In addition, any materials which carry the names of public officials who appear on the ballot should be removed from your polling places or covered prior to the opening of the polls.

Optical Scan Voting Systems: Procedural Reminders

The following procedural reminders are provided for cities and townships using optical scan voting equipment to administer the November 2 general election:

- All optical scan ballots produced for the conduct of the preliminary test, public accuracy test or any other testing procedures must be clearly stamped or printed with the word “TEST.”

- Do not instruct or permit your election inspectors to “mark over” or “darken” votes cast on an optical scan ballot that appear “too light” or are marked with a writing implement that the tabulator cannot read. Such ballots must be duplicated. In all cases, the original ballot cast by the voter must be preserved exactly as cast by the voter!
- It is improper for any member of the precinct board to view a voter’s ballot after the voter has cast votes on the ballot. It is extremely important that this point be emphasized to all election inspectors appointed to serve in optical scan precincts. Voter complaints over this matter typically involve the mishandling of ballots rejected by the tabulator. To ensure the secrecy of optical scan ballots, instruct your election inspectors to remain at least 10 feet away from the tabulator whenever a voter is depositing his or her voted ballot into the tabulator. To ensure the proper handling of voters who have their ballot rejected, a “script” is provided with this newsletter. The distribution of the script to your precinct boards is recommended. The election worker responsible for monitoring the tabulator should read the script to any voter who experiences the rejection of his or her ballot due to a voting error.
- Jurisdictions that count optical scan ballots with “central count” tabulation systems (either absentee ballots or ballots cast in the polls) are reminded that the careful handling of the ballots is essential to ensure the accuracy of the vote totals. As a part of the handling procedures for the November 2 general election, the tabulation equipment must be programmed to reject blank ballots and ballots containing “overvotes.” If this programming feature is not employed as required, inaccurate vote results can occur due to ballots that contain false “overvotes” and/or votes which cannot be scanned by the tabulator due to the voter’s use of an improper marking implement.
- If a write-in vote is cast on an optical scan ballot for an individual who is not a “declared” write-in candidate for that office, it is invalid and is not tallied in the Poll Book. If the invalid write-in vote is the only vote cast for the office, special handling of the ballot is not required. However, if in addition to the invalid write-in vote the voter cast a vote for a candidate on the ballot for the same office, or if the voter cast a “straight party” vote, the Totals Tape must be manually corrected. For a full explanation of the correction procedures, consult the optical scan voting system operational instructions posted on the Bureau of Elections’ website <www.michigan.gov/sos>.
- To preserve the secrecy of optical scan absentee ballots, secrecy sleeves must be issued with all optical scan absentee ballots printed on both sides. (It is not necessary to issue secrecy sleeves with optical scan absentee ballots printed on one side only.)
- Jurisdictions introducing optical scan voting equipment to voters accustomed to voting on other types of ballots are advised to implement extra measures to instruct voters on 1) the proper way to vote optical scan ballots and 2) the importance of using the appropriate marking tool. Showing each voter a large illustration of a properly marked “target area” is recommended. To avoid any improper appearances, such instructional tools must not show the names of any candidates appearing on the official ballot.

Campaigning at the Polls; Exit Pollsters

Campaigning at the polls: There is often confusion on election day over the provisions which govern campaigning at the polls. As a consequence, all precinct chairpersons need to be aware of the following:

- No person is permitted to solicit voters or engage in any type of campaigning within 100 feet of any doorway used by voters to enter the building in which a polling place is located. In addition, no person is permitted to post, display or distribute any material that directly or indirectly makes reference to an election, a candidate or a ballot question in a polling place, in any hallway used by voters to enter or exit a polling place, or within 100 feet of any doorway used by voters to enter the building in which a polling place is located. The following activities are included under the 100-foot restriction:
 - Displaying “pro and con” information on the proposals appearing on the ballot.
 - Approaching voters to encourage them to vote for or against a candidate or ballot question.
 - Distributing any type of campaign literature or write-in stickers.
 - Displaying signs, posters or bumper stickers.
 - Attempting to collect petition signatures.
 - Requesting donations, selling tickets or engaging in similar activities.
- Before the polls open on election day, the members of the precinct board should inspect any doors, foyers or halls which the voters must pass through to enter the polling place to ensure that no unauthorized materials or signs are visible which indirectly or directly make reference to the election, candidates or ballots proposals. If any such signage or materials are found, they must be removed before the polls open.
- A voter may park a car or other vehicle bearing campaign signs or bumper stickers within 100 feet of the polling place during the time he or she is voting. Under any other circumstances, vehicles bearing campaign signs or bumper stickers must be parked at least 100 feet from any doorway used by voters to enter the building in which the polling place is located.
- Election workers have the right to ask voters entering the polls to remove campaign buttons or to cover up clothing bearing a campaign slogan or a candidate’s name. In addition, voters may be told to conceal campaign literature or other campaign materials brought into the polls. While there is nothing to prohibit a voter from referring to campaign literature or “slate cards” when voting, such materials may not be left behind in the voting station. Precinct inspectors should periodically check each voting station for campaign literature left by voters and discard any that is found.

Exit polling: “Exit pollsters” are persons employed to survey electors after they have voted. While Michigan election law does not specifically regulate exit polling, the Department of State’s Bureau of Elections has established by policy that exit pollsters 1) must remain at least 20 feet away from the entrance of the building in which the polling place is located 2) not enter the building in which the polling place is located and 3) not question any person entering the building in which the polling place is located. It merits emphasis that exit polling is the questioning of voters after they have left the polls.

Challengers and Poll Watchers

Challengers: Complete information on the qualifications, rights and duties of election challengers can be found on the Bureau of Elections’ website <www.michigan.gov/sos>. Information on challengers also appears in the precinct manual distributed through the Department, *Managing Your Precinct on Election Day*. Several important points follow:

- Political parties are free to appoint challengers through the date of the election; advance application is not required. Interest groups which support or oppose the passage of a proposal or which have an interest in preserving the purity of elections must apply for authorization to appoint challengers 20 to 30 days prior to the election.
- A candidate does not have the authority to appoint challengers. Consequently, an application received from an organization that wishes to gain the authorization to place challengers in the polls must be denied if the name of the organization contains the name of a candidate (examples: “Citizens for Robert Jones,” “Committee to Elect Dorothy Smith,” “Nancy Lewis for State Representative,” etc.). Candidates who wish to have challengers representing their interests in the polls should be advised to contact their local political party organizations.
- An individual appointed to serve as a challenger must be registered to vote in Michigan; registration within the jurisdiction in which the challenger is appointed to serve not required. Challengers may be appointed to serve in more than one precinct.
- A challenger must have in his or her possession a “Challenger Card” issued by the organization he or she represents. Upon entering the precinct, the challenger must exhibit the card to the chairperson of the election board.
- While a political party or interest group may rotate challengers in a precinct, a political party or interest group may not have more than two challengers present in the precinct at anytime throughout the course of the day.
- If two challengers are representing a political party or an organization in the precinct, only one of the challengers may hold the authority to challenge at any given time. The challengers may alternate the authority to challenge at their discretion. The challengers must advise the precinct board each time the challenge authority is alternated.
- It is the duty of the election board to provide space for challengers which will enable them to observe all election procedures being carried out.

- Challengers may not touch ballots, election materials or voting equipment.
- Challengers may not unnecessarily obstruct or delay the work of the election inspectors.

Other persons in polls: An election is an open process that may be observed by any interested person. (However, note that candidates should not be present in the polling place after they have voted because of the possible conflict with the provisions which prohibit campaigning within 100 feet of the polls.) A person who wishes to observe the election process -- but who is not a qualified election challenger -- is commonly called a “poll watcher.” The distinction between poll watchers and challengers is summarized below:

- A challenger has the right to challenge procedures and a person’s right to vote; a poll watcher does not have this authority.
- A challenger may sit behind the processing table; a poll watcher does not have this privilege. (Poll watchers must seat themselves where they will not interfere with the voting process.)
- Challengers have a right to look at the Poll Book; poll watchers may look at the Poll Book at the discretion of the precinct chairperson. A challenger or a poll watcher may not touch the poll book or any other voting records.

“Improper” Challenges Not Permitted

A challenger is not permitted to challenge a voter’s right to vote unless the challenger has good reason to believe that the elector is not eligible to vote in the precinct.

Proper challenges: A challenge is proper if it is based on information obtained by the challenger through a reliable source or means. For example, the challenger has obtained information that a particular voter 1) is not a true resident of the jurisdiction 2) has not yet attained 18 years of age 3) is not a United States citizen or 4) did not register to vote on or before the “close of registration” for the election at hand. A challenger should know the specific individuals he or she intends to challenge before the polls open on election day.

Improper challenges: A challenge is improper if it is not based on information obtained by the challenger through a reliable source or means. For example, a challenger does not have the right to issue a challenge based on an “impression” that the voter may not be eligible to vote in the precinct due to the voter’s manner of dress, inability to read or write English, perceived race or ethnic background or need for assistance with the voting process. Similarly, a challenger does not have the right to issue a challenge due to any physical or mental disability the voter may have or is perceived to have.

Every effort must be made to ensure that the challenge procedures are properly carried out in the polls as the abuse of the process can have serious consequences including the disenfranchisement of qualified electors, criminal violations and legal challenges over the election results. If challengers are appointed in your jurisdiction, recommended measures for ensuring the proper handling of the challenge process include the following:

- Distribute information on the challenge process to any challengers present in the polls and your precinct board members before the polls open. (Complete information on the challenge process can be found on the Bureau of Elections' website <www.michigan.gov/sos> and in the precinct manual distributed through the Department, *Managing Your Precinct on Election Day*.)
- Instruct your precinct board members on what is and what is not a proper challenge and their responsibility for monitoring the challenge process. Emphasize that they should immediately contact you if it appears that improper challenges are being issued.
- Take immediate action anytime it appears that a challenger is abusing the challenge process. A challenger is not permitted to issue challenges indiscriminately or without good cause. Further, a challenger is prohibited from threatening or intimidating voters 1) entering or leaving the polling place 2) applying to vote 3) entering a voting station or 4) voting. The precinct chairperson has the authority to expel challengers who abuse the challenge process if deemed necessary.

Post-Election CFR Compliance Statement Required of Elected Candidates

Any candidate elected to office on the state, county or local level is required to file an affidavit prior to assuming office which states that at the date the affidavit was executed "all statements, reports, late filing fees, and fines required of the candidate or any candidate committee organized to support the candidate's election under the Michigan Campaign Finance Act ... have been filed or paid."

- The affidavit is not required of an elected candidate who 1) is exempt from the filing requirements of Michigan's Campaign Finance Act or 2) did not receive or expend more than \$1,000.00 during the election cycle.
- Candidates subject to the filing requirement who are elected to an office certified on the county level must submit the required campaign finance compliance statement to the county clerk; city and township clerks are not responsible for receiving the statements.
- A form developed for distribution to elected candidates who must comply with the new filing requirement is provided with this newsletter ("Post-Election Campaign Finance Compliance Statement").
- An elected candidate who is required to file the statement who fails to submit the form is guilty of a misdemeanor punishable by "fine of up to \$500.00 or imprisonment for up to 93 days, or both."

-- POST-ELECTION CAMPAIGN FINANCE COMPLIANCE STATEMENT --

- This form must be filed by any candidate subject to Michigan's Campaign Finance Act who is elected to a state, county, city, township, village or school office. The form must be filed *before* the candidate assumes office. Exceptions: an elected candidate whose Candidate Committee did not receive or expend more than \$1,000.00 during the election cycle is *not* required to submit this form. In addition, this form does not have to be filed by an individual elected to a U.S. Senate, U.S. House or precinct delegate position.
- An elected candidate who is required to file a Post-Election Campaign Finance Compliance Statement must submit this form to the filing official designated to receive the elected candidate's campaign finance disclosure filings.
- An elected candidate subject to the Post -Election Campaign Finance Compliance Statement filing requirement who fails to submit this form prior to assuming office is guilty of a misdemeanor.

I swear (or affirm) that on this date, all statements, reports, error or omission notice responses, late filing fees and fines required of me or any Candidate Committee organized to support my election to office and registered under Michigan's Campaign Finance Act, PA 388 of 1976, have been filed or paid. I further acknowledge that making a false statement in this affidavit is perjury, punishable by a fine of up to \$1,000.00 or imprisonment for up to 5 years, or both.

Signature of

Candidate: _____

Printed Name of Candidate: _____

Residential Address: _____

Phone: _____

Office You Will Assume: _____

Subscribed and sworn to by _____

Name of Notary: _____

before me on the _____ day of _____, _____

Notary Public, State of Michigan, County of _____

My commission expires _____

Signature of notary public

Acting in the County of _____



STATE OF MICHIGAN
TERRI LYNN LAND, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

October 20, 2004

Procedure for Handling Optical Scan Ballots Rejected in the Polls

Election workers appointed to serve in optical scan precincts must be carefully instructed on the appropriate procedures for interacting with voters who have their ballot rejected by the tabulator. As a part of the instruction, it is extremely important to emphasize that the election inspectors cannot view the voter's ballot in an attempt to identify the voting error involved.

To ensure the proper handling of voters who have their ballot rejected, the following "script" is offered. The distribution of the script to election inspectors appointed to serve in optical scan precincts is recommended. The election inspector responsible for monitoring the tabulator should read the script to any voter who experiences the rejection of his or her ballot due to a voting error.

STEP I: *Election worker reads following statement to any voter who experiences the rejection of his or her ballot due to a voting error:*

A. If voter has "overvoted" an office or has voted in more than a single party primary: THE TABULATOR HAS REJECTED YOUR BALLOT BECAUSE IT IS IMPROPERLY MARKED. ACCORDING TO THE TABULATOR, YOU HAVE CAST MORE VOTES FOR AN OFFICE THAN ALLOWED.

IF YOU WISH TO CORRECT THE VOTING ERROR, WE WILL BE HAPPY TO SUPPLY YOU WITH A REPLACEMENT BALLOT.

IF YOU DO NOT WISH TO CORRECT THE VOTING ERROR, WE WILL BE HAPPY TO ACCEPT YOUR BALLOT AS PRESENTED. PLEASE BE AWARE, HOWEVER, THAT ANY INVALID VOTES MARKED ON YOUR BALLOT WILL NOT BE COUNTED.

B. If voter has not cast any votes (blank ballot): THE TABULATOR HAS REJECTED YOUR BALLOT BECAUSE IT DOES NOT READ ANY VOTES ON THE BALLOT.

IF YOU WISH TO CAST VOTES ON THE BALLOT, YOU MAY RETURN TO THE VOTING STATION. INSTRUCTIONS ON THE VOTING PROCESS ARE AVAILABLE AT YOUR REQUEST.

IF YOU DO NOT WISH TO RETURN TO THE VOTING STATION, WE WILL BE HAPPY TO ACCEPT YOUR BALLOT AS PRESENTED. PLEASE BE AWARE, HOWEVER, THAT NO VOTES WILL COUNT.

STEP II: *If the voter wishes to have his or her ballot cast as presented, the election worker should reemphasize how the ballot will be counted and afford the voter a second opportunity to obtain a replacement ballot or return to the voting station:*

A. If voter has “overvoted” an office: IF YOUR BALLOT IS CAST AS MARKED, NO VOTES WHICH APPEAR UNDER ANY OFFICE THAT YOU HAVE “OVERVOTED” WILL COUNT. ARE YOU CERTAIN THAT YOU DO NOT WISH TO RECEIVE A REPLACEMENT BALLOT?

B. If voter has not cast any votes (blank ballot): IF YOUR BALLOT IS CAST AS PRESENTED, NO VOTES WILL COUNT FOR ANY CANDIDATES OR PROPOSALS. ARE YOU CERTAIN THAT YOU DO NOT WISH TO RETURN TO THE VOTING STATION?